IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO. 3792/1999

RAMESH CHAND SOLANKI Vs. STATE OF RAJASTHAN & ORS.

Date: 04.12.2006.

HON'BLE MR. K.S. RATHORE, J.

Mr. Bhanwar Bagri with
Mr. Vinayak Joshi for the petitioner.
Mr. B.S. Chhaba, Addl. GA for the State.
Mr. O.P. Sharma for the respondents.

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This writ petition is directed against the orders dated 21.03.98 (Annexure-5) and 25.02.99 (Annexure-4). Vide order dated 21.03.98, Pension Rules have been amended vide Notification dated 21.03.98 and made effective from 01.10.96 and the validity of these Rules is under challenge in this writ petition.

In the case of ***Ramji Lal Sharma & Ors. Vs. State of Raj. & Anr., decided on 26.08.2002 and reported in 2002(3) RLR 69,*** the validity of the Notification dated 21.03.98 has been upheld by the co-ordinate Bench of this Court.

In view of the ratio decided by this Court in the aforementioned case of ***Ramji Lal Sharma & ors. (supra),*** the relief claimed by the petitioner so far as quashing and setting aside the Notification dated

21.03.98 is concerned, the writ petition fails and the same is dismissed.

Now the controversy remains with regard to refusal of gratuity amount vide order dated 25.02.99 (Annexure-4). Vide Annexure-4, the respondents have quashed and set-aside the order dated 16.01.99, which is Annexure-3, by which sanction order has been passed regarding payment of gratuity after adjusting the payment made earlier to the tune of Rs. 50,855/-.

Learned counsel for the respondents referred clause-5 of the Notification dated 21.03.98, which is reproduced hereunder:-

> "5. The State Government has revised the pay scales of Government servants with effect from 1.9.1996 with the conditions that no arrears would accrue for the period from 1.9.1996 to 31.12.1996. Accordingly on the same lines in respect of Government servants retired/ died while in service during the period 1.9.1996 to 31.12.1996, no arrear of pension shall accrue upto 31.12.1996. Pension/family pension calculated on pre-revised pay shall only be payable upto 31.12.1996 and the pension/family on revised notional pay and as per the above mentioned amendments shall be payable with effect from 1.1.97. The commutation and Gratuity to these Government servants shall not be admissible on the revised notional pay, and the amount of Commutation/ Gratuity already paid/payable on the pre-revised pay shall be treated as

final.”

Learned counsel for the respondents submits that as per Clause-5 of the Notification dated 21.03.98, no arrears would accrue for the period from 1.9.1996 to 31.12.1996.

It is also not disputed that the petitioner retired on 31.12.1996 and it is further made clear that commutation and gratuity to these Government servants shall not be admissible on the revised notional pay, and the amount of Commutation/Gratuity already paid/payable on the pre-revised pay shall be treated as final. Considering the said Clause-5 of the Notification dated 21.03.98, it is given out by the learned counsel for the respondents that the petitioner is now not entitled to get the benefit of the gratuity and he is only entitled for pension/family pension calculated on pre-revised pay scale and shall be payable w.e.f. 01.01.97.

The controversy is already decided by a co-ordinate Bench of this Court in the case of ***Ramji Lal Sharma & ors. (supra).*** I find no merit in the writ petition and no interference is called for in the impugned order.

Consequently, the writ petition fails and the

same is hereby dismissed. The respondents are directed to provide retiral benefits to the petitioner strictly in accordance with the Notification dated 21.03.98.

(K.S. RATHORE),J.

/KKC/